

# U.S. Department of Energy

1000 Independence Ave, SW  
Washington, DC 20585

In the Matter of:

**Westinghouse Lighting Corporation**

Case Number: 2010-CE-09/1001

## NOTICE OF NONCOMPLIANCE DETERMINATION

### CERTIFICATION

Manufacturers of certain covered products are required to certify compliance with the applicable energy conservation standards through submission of a compliance statement and a certification report. 10 CFR § 430.62. *See* 42 U.S.C. 6296. As of April 19, 2010, Westinghouse Lighting Corporation (Westinghouse) had not filed these documents with DOE. Accordingly, DOE issued a Notice of Proposed Civil Penalty for apparent violations of the certification requirements. On June 4, 2010, Westinghouse provided to DOE a compliance statement for incandescent reflector lamps and copies of test reports for a variety of models of incandescent reflector lamps. Westinghouse also provided a spreadsheet summarizing the information from the test reports. In relevant part, the spreadsheet (and test reports) detail the following information:

<b>Westinghouse Product Code</b>	<b>Lamp Description</b>	<b>Lamp Efficacy in Lumens</b>	<b>Wattage</b>	<b>Basic Model</b>
0521000	50PAR30/H/LN/F/FL	10.36	50	50PAR30_F
0521100	75PAR30/H/LN/F/FL	12.21	75	75PAR30_F
0521300	45PAR38/H/F/FL	9.68	45	45PAR38/F
0352600	75PAR38/H/F/FL	12.30	75	75PAR38/F
0351700	90PAR38/H/F/FL/130	12.57	90	90PAR38/F_130
0521400	90PAR38/H/F/FL	12.82	90	90PAR38/F
0528400	90PAR38/H/FL/2	11.62	90	90PAR38
0548400	90PAR38/H/FL	11.62	90	90PAR38
0548600	90PAR38/H/VWFL	11.62	90	90PAR38
0548700	90PAR38/H/SP	11.62	90	90PAR38
3691700	90PAR38/H/FL/130	13.87	90	90PAR38_130
3698900	90PAR38/H/SP/130	13.87	90	90PAR38_130

Incandescent reflector lamps manufactured after November 1, 1995, must meet the minimum average lamp efficacy shown below:

Nominal lamp wattage	Minimum average lamp efficacy (lm/W)
45-50	10.5
67-85	12.5
86-115	14.0

### FINDINGS

Based on the testing results described above, DOE has determined that the models identified by Westinghouse Product Codes 0521000, 0521100, 0521300, 0352600, 0351700, 0521400, 0528400, 0548400, 0548600, 0548700, 3691700, 3698900 do not meet the applicable DOE energy conservation standards.

### MANDATORY ACTIONS BY WESTINGHOUSE

In light of the above findings, Westinghouse must take the following steps in accordance with 10 CFR § 430.71:

- (1) Immediately cease distribution in commerce of all units of products 0521000, 0521100, 0521300, 0352600, 0351700, 0521400, 0528400, 0548400, 0548600, 0548700, 3691700 and 3698900; and
- (2) Provide immediate written notification of this noncompliance determination to all persons to whom Westinghouse has distributed units of products 0521000, 0521100, 0521300, 0352600, 0351700, 0521400, 0528400, 0548400, 0548600, 0548700, 3691700 and 3698900; and
- (3) Provide within 30 calendar days of the date of this letter any and all records, reports, and other documentation pertaining to the acquisition, ordering, storage, shipment, or sale of products 0521000, 0521100, 0521300, 0352600, 0351700, 0521400, 0528400, 0548400, 0548600, 0548700, 3691700, and 3698900.

### OPTIONAL ACTIONS BY WESTINGHOUSE

In addition to the mandatory steps listed above that Westinghouse must complete, Westinghouse may avail itself of other options with respect to the models that DOE has determined to be in noncompliance. Specifically, Westinghouse may request additional testing or make immediate changes to its products to bring them into compliance with the applicable standard.

#### (1) Additional Testing

Westinghouse may request that DOE conduct additional testing of each model found to be noncompliant.

All units must be tested in accordance with 10 CFR § 430.70(a)(1)-(5), and Westinghouse shall bear the costs of all testing that is conducted.

Until DOE determines that a tested model complies with the applicable standard, that model may not be sold or otherwise distributed by Westinghouse.

If, after this testing, DOE determines that a model complies with the applicable standard, DOE shall issue a notice of allowance to permit Westinghouse to resume the distribution of the affected models.

## (2) Modifications to Current Models

Westinghouse may also elect to modify the basic models that have been determined to be noncompliant to bring them into compliance with the applicable standard.

Should Westinghouse opt to do so, the modified basic model shall be treated as a new basic model under the regulations and must be certified in accordance with the provisions of 10 CFR Part 430.

Westinghouse shall also maintain records that demonstrate that the modifications have been made to all units of the new basic model prior to distribution in commerce.

Records addressing these new basic models shall be maintained for a period of time that is consistent with DOE's regulations for product certification -- i.e., for a period of two years from the date that production has ceased. *See* 10 CFR § 430.62(d).

## CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

Should Westinghouse fail to immediately cease the distribution of the above models, this letter serves as notice that DOE will seek a judicial order within 15 calendar days to restrain further distribution of these models. If, however, Westinghouse provides DOE with a satisfactory statement within that 15-day period detailing the steps that Westinghouse will take to ensure that all noncompliant models will no longer be distributed in commerce, DOE may elect to defer seeking such an order until a more appropriate time, if needed.

The distribution of any noncompliant models, including during any manufacturer-initiated testing as described above, may result in DOE seeking all appropriate legal remedies available under Federal law, including injunctive relief and civil penalties with respect to each unit distributed in violation of Federal law.

Dated: 6/14/10



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Scott Blake Harris  
General Counsel